

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE**

STATE OF TENNESSEE,)
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)
Plaintiff,)
)
)
v.) Civil Action No. 3:23-cv-384
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)
)
XAVIER BECERRA, in his official capacity)
as Secretary of Health and Human Services,)
et al.,)
)
Defendants.)
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PROPOSED ORDER

Upon consideration of Plaintiff's Motion for Preliminary Injunction and 5 U.S.C. § 705 Stay, the memoranda in support thereof and in opposition thereto, any arguments of counsel, and the entire record in this case, it is hereby:

ORDERED that Plaintiff's Motion for Preliminary Injunction and 5 U.S.C. § 705 Stay **BE**, and it hereby **IS, GRANTED**; it is further

ORDERED that HHS's March 20, 2023, decision ("Rescindment Decision") to rescind Tennessee's Title X funding **BE**, and hereby **IS, DECLARED** to be likely unlawful under the Spending Clause, APA, or both; it is further

ORDERED that the Rescindment Decision **BE**, and hereby **IS, STAYED** under 5 U.S.C. § 705, such that the Rescindment Decision has no legally operative effect; it is further

ORDERED that the Defendants, and any other agency or employee of the United States,

BE, and hereby **ARE, ENJOINED** from enforcing, relying on, implementing, or otherwise acting pursuant to the Rescindment Decision; it is further

ORDERED that the Defendants **BE**, and hereby **ARE, ENJOINED** from withholding Title X funds, to which Tennessee would be entitled under the March 2022 award of Tennessee's 5-year Title X grant, on the basis that Tennessee's Title X program does not engage in counseling and referrals for abortions (including out-of-state abortions) that are otherwise illegal under Tennessee law; it is further

ORDERED that the Defendants **BE**, and hereby **ARE, ENJOINED** from disbursing any Title X funding to which Tennessee would be entitled absent the Rescindment Decision to any entity other than Tennessee's Health Department; and it is further

ORDERED that the security requirement of Federal Rule of Civil Procedure 65(c) **BE**, and hereby **IS, WAIVED**.

SO ORDERED.

Dated: _____

Honorable Travis R. McDonough
United States District Court Judge